BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission, on its own motion, to make adjustments to the universal service fund mechanism established in NUSF-26.	))))))	**Application No. NUSF-50 Progression Order No. 3**
In the Matter of the Commission, on its own motion, seeking to investigate whether the zones established in Docket No. C-2516 are appropriate in light of NUSF-26 findings and conclusions.	))))))))	**Application No. C-3554/ PI-112**

COMMENTS BY WINDSTREAM NEBRASKA, INC.

On February 13, 2007 the Nebraska Public Service Commission ("Commission" or "NPSC") entered an Opinion and Findings inviting interested persons to submit testimony/comments in the above captioned docket by March 30, 2007. Subsequently, on March 12, 2007 the Commission entered a second Opinion and Findings in the same docket extending the deadline for testimony/comments to April 17, 2007. Pursuant to the Commission's Opinion and Findings, Windstream Nebraska, Inc. ("Windstream") provides the following limited comments:

1. Initially, Windstream notes that the above captioned dockets and associated proceedings have largely pertained to Qwest Corporation and the prior determination regarding the establishment of geographic zones and their respective state universal service support.

2. Because these prior opinions and determinations have not applied to Windstream or its predecessor (Alltel Nebraska, Inc.), it is assumed that any subsequent determination in these dockets will also not apply to Windstream. However, because of the importance of these issues and the possibility that the policy concepts adopted in these dockets could have future application to other telecommunications providers in Nebraska, including Windstream, we believe it is important to provide some insight to these matters.

3. Therefore, Windstream will limit its comments to three specific areas. First, the concept of sub-wire center targeting for universal service support has merit, however in order to do so accurately, further enhancements to the modeling process need to occur. Second, although Staff's proposal may have merit in terms of trying to match unbundled network element (UNE) loop rates with the "in-town" and "out-of-town" universal service support mechanism, the mechanics of developing the proposed loop zone cost use revenue distributions which may or may not be relevant to the true underlying cost. Third, the current porting method which provides universal service support to CETC's in zones where the incumbent carrier does not qualify for support is flawed. Staff's recommendation to correct this flaw has merit.

First, Windstream believes that universal service support should be targeted to geographic areas that are high cost areas to serve. In a recent ex parte filing by Windstream to the Federal-State Joint Board on Universal Service, a copy of which is attached, Windstream proposed that support should be targeted at the wire center level. This Commission has already determined that universal service support for incumbent local exchange carriers should not be provided for "in-town" lines. This concept is often referred to as the "donut" and "the hole" approach to targeting universal service support and is done at a sub-wire center level. The theory has merit since it generally costs less to serve customers that are close to the serving central office (in-town) than customers that are in the outlying areas of an exchange (out-of-town). As noted above, Windstream's position, as filed in our ex parte with the Federal-State Joint Board on Universal Service, is that targeting should be done at a wire center level. That being said, Windstream is receptive to sub-wire center targeting if the ability to do such targeting can be done accurately and reliably. To Windstream's knowledge there are no models that have been developed to calculate universal service cost at a sub-wire center level, although there have been improvements in the modeling process. Embarq recently filed an ex parte with the Federal-State Joint Board on Universal Service and recommended that the FCC undertake a detailed study which would address the identification of the highest-cost areas at a granular level. With the advances in modeling, better data and computing power, the FCC may provide a modeling platform that this Commission could utilize to further target universal service support in Nebraska. Absent a reliable model, however, it may be premature to modify per line universal service support to the sub-wire center.

Second, the development of the proposed UNE loop rates in Attachment B and C appear to use a theoretical revenue distribution of what Qwest's loop revenues would be if all the access lines in the respective zones were converted to the existing UNE loop rates. This revenue is then redistributed to a theoretical set of "in-town" and "out-of-town" access lines based on a household distribution within the model.

Windstream urges caution about using such an arbitrary basis to reset UNE loop rates that were established in cost docket proceedings. Windstream understands the Staff's desire to use some retargeting mechanism that is administratively simple and to avoid numerous unnecessary cost docket proceedings that would be impractical. However, in the end the process used to target support needs to produce an accurate result, which may not be achieved if the Commission favors the adoption of an administratively simple process.

Using a revenue distribution mechanism as presented on Exhibit B and C could produce non-cost based UNE loop rates. Improper prices send the wrong economic signals to competitors and can influence their decision whether to buy or build loops.

For example, in Attachment B it appears that the zone 2 and 3 "in-town" proposed UNE loop rates of $9.33 and $9.93 respectively are less than the $10.97 "in-town" zone 1 rates. Although there may be a good reason for this, it is not based on an evaluation of the actual "in-town" cost for the various zones. Changing the UNE loop rates based on this approach should not be done without a thorough understanding of the cost characteristics.

Additionally, Windstream understands that the underlying data for much of the distribution mechanism comes from the FCC cost model. This cost model however uses old census data and is not current in terms of reflecting access lines and household information.

Third, Staff proposes to change the way support is ported to CETC's to recognize the higher "out-of-town" UNE loop rates that a CETC would incur under the proposal. As discussed above, Windstream is concerned about the overall resetting of the "in-town" and "out-of-town" UNE loop rates under the Staff proposal because the reset rates may have little or no relation to the actual underlying costs.

Windstream supports the elimination of CETC universal service support for "in-town" zones when the underlying incumbent does not qualify to receive support for these "in-town" lines. To maintain competitive neutrality, the porting of universal service should provide support to the CETC in the same manner and amount provided to the incumbent LEC for the lines in its service area. The porting methodology currently utilized by the NPSC does not comport with the FCC rules for calculating support to a competitive eligible telecommunications carrier. As 47 C.F.R. §54.307(a)(1) states:

> A competitive eligible telecommunications carrier serving loops in the service area of a non-rural incumbent local exchange carrier shall receive support for each line it serves in a particular wire center based on the support the incumbent LEC would receive for each such line.

When the incumbent LEC is not receiving support for a line, there should be no support available to the CETC.

In summary, Windstream applauds the Staff's efforts to better target universal service support. In the long term, such an approach should assure that universal service funding is provided to the highest cost areas and the network owners that are incurring the cost to provide the supported services in high cost areas. Although there are no existing cost models that properly calculate sub-wire center cost there have been improvements in these mechanisms and there could be future tools available to make these calculations accurately. However, while the Staff proposal to change the underlying UNE loop rates based on a revenue distribution mechanism may be administratively simple, it is not economically sound. Finally, the Staff proposal to eliminate "in-town" per line universal service support to CETC's where incumbents do not receive such support is sound and consistent with the FCC's directive.

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission, on its own motion, to make adjustments to the universal service fund mechanism established in NUSF-26.	**Application No. NUSF-50** **Progression Order No. 3**
In the Matter of the Commission, on its own motion, seeking to investigate whether the zones established in Docket No. C-2516 are appropriate in light of NUSF-26 findings and conclusions.	**Application No. C-3554/** **PI-112**

Signature Page

I, William F. Kreutz do attest that the Comments being filed on behalf of Windstream Nebraska, Inc. in this proceeding are true and correct to the best of my knowledge.

Date: APRIL 16, 2007

William F. Kreutz

William F. Kreutz
Vice President
Regulatory Policy & Strategy
Windstream Communications

Eric N. Einhorn
Vice President - Federal Government Affairs
Windstream Communications, Inc.
1155 15th Street, N.W., Suite 1002
Washington, DC 20005

windstream.

April 2, 2007

Commissioner Deborah Taylor Tate
Federal Chair, Federal-State Joint Board on Universal Service
Federal Communication Commission
445 Twelfth Street, SW
Washington, DC 200554

Commissioner Ray Baum
State Chair, Federal-State Joint Board on Universal Service
Oregon Public Utilities Commission
550 Capitol St., SE, Suite 215
Salem, OR 97308

RE: High Cost Universal Service Support, WC Docket No. 05-337
Federal-State Joint Board on Universal Service, CC Docket No. 96-45

Dear Commissioner Tate and Commissioner Baum:

Windstream Communications[1] ardently supports the Joint Board and Federal Communications Commission's review of the high-cost mechanism[2] and is encouraged by the

---

[1] Windstream is an S&P 500 communications company formed in the summer of 2006 through the spin-off of Alltel's wireline business and merger with VALOR Communications Group. Windstream provides voice, broadband, and entertainment services to customers in rural areas of 16 states.

[2] The Commission originally asked the Joint Board to review the high-cost mechanism in June 2004. *In the Matter of Federal-State Joint Board on Universal Service,* CC Docket No. 96-45, 19 FCC Rcd. 11538 (released June 28, 2004). Since that time, the Joint Board has considered various ways to reform the current system and numerous parties have filed comments in this docket forming a voluminous record supporting the need for fundamental reform. See *Federal-State Joint Board on Universal Service Seeks Comments on Certain of the Commission's Rules Relating to High-Cost Universal Service Support*, Public Notice, CC Docket No. 96-45, FCC 04J-2 (released August 16, 2004); *Federal-State Joint Board on Universal Service Seeks Comments on Proposals to Modify the Commission's Rules Relating to High-Cost Universal Service Support*, Public Notice, CC Docket No. 96-45, FCC 05J-1 (released August 17, 2005); *Federal-State Joint Board on Universal Service Seeks Comments on the Merits of Using Auctions to Determine High-Cost Universal Service Support*, Public Notice, CC Docket No. 96-45, FCC 06J-1 (released August 11, 2006).

Joint Board's February 20th *en banc* hearing. As a result of the hearing and indications that the Joint Board will provide a recommendation soon, parties have submitted additional *ex parte* comments proposing reform, which have focused the debate. Windstream agrees with some of these suggestions but, as described in this letter, its views differ on several critical issues in important ways.

Substantial reform of the high-cost mechanism is long overdue and urgently needed. Simply put, the current universal service high-cost mechanism falls well short of accomplishing the public policy goals set out in section 254 of the Act.[3] The framework in place today is fundamentally flawed because it fails to target explicit support to high-cost areas to the detriment of many rural consumers. Moreover, the "rural" mechanism, which is based on embedded costs, provides higher levels of support to less efficient providers than perhaps is necessary. Likewise, the "non-rural" mechanism provides funding based on statewide averaged costs, which likely provides too little support in many cases. Complicating matters, the rules allow multiple Competitive Eligible Telecommunications Carriers (CETCs) to receive support based on other carriers' costs, which are often unrelated to the CETCs costs and based on different technologies. This has caused the fund size to balloon in recent years undermining the viability of universal service as a whole.

Reform is needed to bring the operation of the program in line with its main purposes: to provide specific, predictable, and sufficient support in high-cost areas; to preserve and advance universal service; and to ensure access to those services at rates that are affordable, reasonable, and comparable to rates in urban areas.[4] Continued reliance on implicit support through cost averaging over large geographic areas also undermines universal service in today's competitive environment. As the Nation's telecommunications infrastructure transforms from a circuit switched environment to one based on broadband and IP technology, it is imperative that the Joint Board recommend a framework that will provide a stable environment for carriers to continue the efficient deployment of broadband and advanced telecommunications networks in rural America.

As the largest provider focused almost exclusively on rural areas -- with over three million access lines and an average density of 25 access lines per square mile -- and one of the leading providers of broadband in the Nation, Windstream is uniquely positioned to comment in this proceeding.[5] Windstream is an efficient provider of telecommunications services to rural consumers and is not heavily reliant on receiving high-cost support from the Federal universal service fund.[6] Windstream does not seek reforms that would significantly alter the level of high-

---

[3] 47 U.S.C. §254.

[4] *Id.* at §254(b).

[5] Windstream has diverse experience with the complexity of the current universal service rules qualifying as both a "rural" and "non-rural" carrier for USF purposes. Windstream has "rural" study areas that are below 50,000 loops – and receive Local Switching Support as a result -- and study areas larger than 200,000 lines -- and, as such, receive less support than rural study areas with fewer lines but similar cost characteristics. In some cases our funding is limited, pursuant to §54.305 of the Commission's rules, by the amount of support that another provider received before we purchased their lines. *47 C.F.R. §54.305.* The benefit of this complexity to rural consumers and the public interest is often hard to discern.

[6] Windstream receives less than 1% of its total revenue from high-cost loop and model support, and less than 3% of its total revenues from all Federal high-cost support combined.

cost support it receives. Rather, Windstream's interest in reform is to rationalize universal service to better align the incentives for carriers serving rural areas to promote efficient operations and investment. As such, unlike many rural carriers who fear reform and might prefer to maintain the status quo, Windstream supports meaningful universal service reform. In order to be meaningful, however, reform must address the fundamental flaws inherent in the current broken system. As described below, these flaws include funding multiple CETCs without regard to their own costs, failing to target support to high-cost areas, providing too much support to some providers and not enough to others, all without an objective way to assure service is affordable to consumers. Although, growth of the fund in recent years has been significant and threatens the sustainability of the fund, the Joint Board should make specific recommendations to resolve the issues described above and not limit its focus to just controlling the size of the fund.

Merely freezing in place the current levels of support distributed under existing rules, as proposed by Verizon,[7] without modifying the way support is distributed is not in the public interest and does not further the principles set out in the Act. Instead, the Joint Board must consider the universal service goals set forth in the Act and recommend forward-looking and rational universal service reforms that target adequate explicit support to high-cost areas. To do otherwise, would perpetuate the inequities and insufficiencies in the current mechanism to the detriment of rural consumers and the Nation.

Control Growth By Addressing The Source – CETCs

As Chairman Martin observed at the recent Joint Board *en banc* hearing on this matter, "almost all the recent growth in high-cost universal service is largely as a result of CETC access to high cost support."[8] He noted that support going to CETCs has grown at a trend rate of over 100 percent a year since 2002, and from $1 million in 2001 to $1 billion in 2006. These trends are expected to continue in the future unless meaningful reform is adopted.[9]

There is no limit in the rules to the number of CETCs that may be designated for a particular area. As a result there are many areas with multiple mobile CETCs all receiving universal service support for serving many of the same consumers. Moreover, those CETCs receive support based on the incumbent local exchange carriers' costs rather than their own. So, not only are multiple CETCs allowed to line up for support, but the amount of support they ultimately receive is not related to their own costs (however those are defined).

To gain control of the exponential growth, the Joint Board should recommend limiting support to one fixed ETC and one mobile ETC per area. If the Joint Board is inclined to recommend that the FCC use reverse auctions to distribute support, the Commission could, as Verizon has suggested, start in areas with multiple mobile CETCs. This would provide a controlled environment to develop a reverse auction process. The Joint Board should also recommend suspending new designations until comprehensive high-cost mechanism reform can be achieved. Reducing multiple mobile CETCs to one per area, providing support based on the

[7] *See* Letter from Kathleen Grillo, Verizon, to Deborah Taylor Tate, FCC, and Ray Baum, Or. Pub. Serv. Comm'n, WC Docket No. 05-337 (filed Feb. 9, 2007).
[8] *See* Opening Remarks of Chairman Kevin Martin, Federal-State Joint Board on Universal Service *En Banc* Meeting at 4 (Feb. 20, 2007).
[9] *See id.* at 5.

CETC's own costs (or a reverse auction), and halting the proliferation of CETCs to new areas will control the problematic and systemic growth in the fund by addressing it at the source.

Target Support To Rural, High-Cost Areas

The Joint Board and the Commission should ensure adequate support is available for high-cost areas by actually targeting support to those areas, which the current mechanism fails to do. As a result of this failure, many rural and high-cost areas have been under-funded for years (and the converse is surely true in some areas as well). Windstream agrees with other carriers that have proposed targeting support at a wire center level and will not repeat those proposals here.[10] Averaging support over large areas (e.g., states or in some cases study areas) often prevents support from being directed to high-cost areas in a meaningful way, dampening investment in those high-cost areas. Targeting support to high-cost areas at the wire center level will direct support more directly, equitably, and rationally to benefit rural consumers.

Optimize Support Levels

Concurrent with targeting support to rural, high cost areas and controlling the source of the runaway growth in the fund, the Joint Board should recommend the adoption of a new methodology to calculate costs used to determine and distribute support to high-cost areas. The new calculation methodology should be based on forward-looking costs to encourage carriers serving rural consumers to efficiently operate and invest in their networks. The Commission could combine this cost methodology with improved targeting to ensure that support is fairly and reasonably distributed. The Commission could also designate funds made available from eliminating multiple mobile CETCs to support under-funded high-cost areas.

The current forward-looking model used by the Commission is inadequate and does not accurately estimate forward-looking costs. Substantial improvements have been made, however, in modeling of forward-looking costs.[11] Consistent with these improvements, the Commission can develop a more accurate and meaningful model. Of course, any model that is adopted should be designed to target support at the wire center level and should use geo-coded customer location information. This is particularly important for rural serving areas where accurate customer location information is critical to develop reasonably accurate estimates of the cost of providing universal service. Of course, Windstream recognizes that for the smallest companies (not small study areas held by larger companies), the practical reality may require the Joint Board to consider the continued use of embedded costs because modeling may not be efficient or practical for those providers. If so, this should not hinder reform for the rest of the industry.

Reverse auctions are an interesting concept worthy of close examination, but their use should be approached with caution. Although using reverse auctions to size the universal service need for a particular service area and service offering is worth exploring, as the record in this proceeding indicates, designing such an auction framework and process is a complex matter. As

[10] *See, e.g.*, Presentation of Brian K. Staihr, Regulatory Economist – Embarq, Federal-State Joint Board on Universal Service *En Banc* Hearing (February 20, 2007).

[11] *See, e.g.*, Presentation of Jim Stegeman, CostQuest Associates, Federal-State Joint Board on Universal Service *En Banc* Hearing (February 20, 2007).

suggested above, if the Joint Board is inclined to recommend the use of reverse auctions it should start on a trial basis in areas with multiple mobile CETCs to select the one mobile CETC to receive support.

Institute Affordability Benchmark

Since the passage of the 1996 Act, many states have taken on the challenge of rebalancing rates, removing implicit support, establishing explicit universal service funds, and ensuring that rates remain affordable. Other states have not. Therefore, the Joint Board should recommend that the Commission adopt an affordability benchmark mechanism to encourage reasonable and comparable rates across the Nation. An affordability benchmark would better distribute the universal service burden across all consumers. The Joint Board or the Commission could develop their own benchmark or use as a starting point the one jointly developed for the Early Adopter Fund by state commissions and industry participants in the Commission's intercarrier compensation reform docket.[12] Affordability benchmarking would help ease the burden of the overall universal service fund and ensure equitable and sufficient support as required by the Act.

* * *

The Joint Board should recommend and the Commission should adopt reforms that fulfill the vision of universal service set out in the Act – to provide adequate explicit support for rural, high-cost areas to ensure reasonably comparable services at affordable rates. Unfortunately, the current rules cause irrational outcomes that negatively affect consumers in many high-cost areas and do not recognize the competitive realities of the marketplace. The Joint Board should not settle for freezing in place that broken and outdated system.

Sincerely,

/s/ Eric N. Einhorn

cc: Joint Board Members and Staff

[12] *See* Letter from State Commissions and Missoula Plan Supporters to Marlene Dortch, FCC, CC Docket No. 01-92 (filed Jan. 30, 2007).